



**PLANNING  
DEPARTMENT**

**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 1120 • FAX (508) 839-4602  
planningdept@grafton-ma.gov  
[www.grafton-ma.gov](http://www.grafton-ma.gov)

**MEMORANDUM**

TO: Robert Hassinger, Chairman of the Planning Board  
FROM: Christopher McGoldrick, Town Planner  
CC: Kevin Quinn, Quinn Engineering, Inc. (via Email)  
Carl Hultgren, Quinn Engineering, Inc. (via Email)  
Eric Gilmore, Applicant (via Email)  
DATE: October 19, 2020  
SUBJECT: Staff Review of 114 Merriam Road (CD 2015-6.1)

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*This memo has been prepared in response to the Planning Department's discussions with the Applicant of 114 Merriam Road Common Driveway Special Permit (CD 2015-6.1):*

**BACKGROUND**

Staff has spoken with the applicant of the above common driveway permit which was originally approved on July 13, 2015 and extended via Modification (2015-6.1) as approved on September 12, 2016. The original Special Permit Condition #16 defined a time limit on the beginning of construction of the Common Drive. Condition C1 of the Modification changed the wording to a time limit based on completion of construction, not the commencement of construction of the Common Drive as originally specified. The application materials explicitly request an extension of the timeline to commence, and staff and the applicant's engineer were unable to find information regarding the Board's intent to adjust the language to completion of work.

**STAFF ANALYSIS**

Our understanding is a pending sale for a property is dependent upon resolution of this language with time being a significant factor. Staff's recommendation to the applicant was to apply for a Minor Modification Approval (for the Board to take up at their October 26, 2020 meeting) and Modification of 2015-6.1 (to be taken up at the Board's November 9 or 23, 2020 meeting depending upon time needed to adequately advertise).

If the Board approves the Minor Modification on October 26, 2020, the applicant can request a withdrawal without prejudice of the Modification application. If the Minor Modification is denied, the applicant loses no time moving forward with the full Modification request.

**STAFF RECOMMENDATIONS**

1. If the Minor Modification request is approved by the Board, we respectfully recommend including a waiver of the Special Permit Modification Application Fee (\$100).

2. If the Minor Modification request is approved by the Board and the legal advertising for the November hearing has not yet been completed, we also respectfully recommend including a waiver for the Legal Advertising Fee (\$168).

Please advise if there are any issues with the procedural recommendations to the applicant outlined above or listed staff recommendations. We are happy to discuss this matter further with the Applicant, the Board, the Buyer's attorney, and any other interested party as needed.

We trust this memo clarifies the Planning Department's review of 114 Merriam Road (CD 2015-6.1). We are happy to discuss any portion of this memo which may be unclear.

Thank you.



TOWN CLERK

Donna M. Girouard  
Town Clerk

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GRAFTON MEMORIAL MUNICIPAL CENTER  
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**CERTIFICATE OF NO APPEAL**



Bk: 55451 Pg: 1

Page: 1 of 13 06/09/2016 11:18 AM WD

**APPROVAL:** PLANNING BOARD  
Special Permit (2015-6)

**PETITIONER:** Frederic & Margot Churchill  
114 Merriam Road, Grafton, MA

**OWNER:** Frederic & Margot Churchill  
114 Merriam Road, Grafton, MA

**DEED REFERENCE:** 114 Merriam Road  
Assessors Map 59, Lot 24  
Book 6442, Page 94 & Page 187  
Book 12253, Page 286  
Book 22858 Page 359  
Worcester District Registry of Deeds

This is to certify that a copy of the Decision of the Planning Board of the Town of Grafton for Modification of a Special Permit under Section 2.3.3.10 of the Grafton Zoning- By-Laws, for construction of a common driveway at 114 Merriam Road was received and filed in the Office of the Town Clerk on July 21, 2015 at 9:47 A.M.

No Notice of Appeal of the Decision was filed within the twenty days next, the appeal period ending on August 10, 2015.

A true copy,  
Attest:  
(Seal)

  
Town Clerk – Grafton, Massachusetts

2016

**DÉCISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2015-6)  
Common Driveway**

**114 Merriam Road  
Grafton, MA  
Frederic & Margot Churchill (Applicant / Owner)**

RECEIVED TOWN CLERK  
GRAFTON  
2015 JUL 21

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Frederic & Margot Churchill (hereinafter the APPLICANT / OWNER) for a Scenic Road Permit for the construction of a common driveway at 114 Merriam Road, and shown on the Grafton Assessor's Map 59, Lot 24, and owned by Frederic & Margot Churchill, 243 Pleasant Street, South Yarmouth, MA 02664, by deed recorded in the Worcester District Registry of Deeds Book 6442, Page 94 & Page 187; Book 12258, Page 286; and Book 22858, Page 359.

The above referenced Application for a Special Permit (hereinafter APPLICATION) was submitted on April 22, 2015. Notice of the public hearing and the subject matter thereof was published in the Grafton News on April 29 and May 6, 2015 and posted with Town Clerk's Office. The Planning Board considered the Application at a properly posted meeting of said Board on May 18, 2015. Following public input the hearing was closed on May 18, 2015.

The following Board members were present during the entire public hearing process: Sargon Hanna, Michael Scully, Robert Hassinger, Linda Hassinger, and David Robbins. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

## **I. BACKGROUND**

This Special Permit Application was presented at a joint hearing with Scenic Road Permit 2015-1 which is for the removal of two (2) +/- 6" pine trees and two curb cuts in the stone wall within the Town's right of way at the same address. The proposed common driveway and the work relating to this Scenic Road Permit Application are a co-joined in that the full development of the site requires both permits.

Each application will generate an individual Decision but are not mutually exclusive in that the common driveway plan requires the issuance of Scenic Road Permit. Each Application will be conditioned to reference each other to ensure that the totality of the site will be developed according to all conditions.

## **II. SUBMITTALS**

The following items were submitted to the Board for its consideration of these applications:

- EXHIBIT 1.** Unbound application packet prepared by Quinn Engineering, Inc. on behalf of the Applicant, submitted on April 22, 2015, including the following:
- Application for a Hearing Under the Scenic Road By-Law, 1 page.
  - Correspondence from Quinn Engineering, Proposed Common Driveway & Scenic Road Curb Cuts, 114 Merriam Road; dated April 22, 2015; 9 pages.

- Certified Abutters List, April 14, 2015, 1 page.
- Certificate of Good Standing, signed by the Treasurer / Collector's office on April 0, 2015; 1 page.
- Property Record Card, 114 Merriam Road, printed from the Town of Grafton GIS system; dated April 7, 2015; 1 page.

Plan Set, Lot Development Plan, Grafton Massachusetts, 114 Merriam Road; prepared by Quinn Engineering, Inc.; 11" x 17", black & white; dated November 18, 2014, revised through April 16, 2015; 7 sheets as follows:

- Sheet 1: Existing Conditions Plan
  - Sheet 2: Proposed Lot Layout Plan
  - Sheet 3: Proposed Lot Development Plan
  - Sheet 4: Erosion Control and Stormwater Pollution Prevention Plan
  - Sheet 5: Profile, Details & Notes
  - Sheet 6: Details & Notes
  - Sheet 7: Notes
- Stormwater Report, Proposed ANR Subdivision, 114 Merriam Road, Grafton, MA; prepared by Quinn Engineering, Inc.; dated December 12, 2014, revised through April 16, 2015.
  - Draft Concept Subdivision Plan in Grafton Massachusetts, prepared by Quinn Engineering, Inc.; revised through April 16, 2015; 24" x 36", black & white; 1 sheet.
  - Draft Proposed Lot Development Plan (Conforming Plan) in Grafton Massachusetts, prepared by Quinn Engineering, Inc.; dated April 16, 2015; 24" x 36", black & white; 1 sheet.

EXHIBIT 2. Correspondence from Graves Engineering, 114 Merriam Road Common Driveway, Hydrology and Stormwater Management Review; dated May 8, 2015, received May 11, 2015; 3 pages.

EXHIBIT 3. Plan Set, Lot Development Plan, Grafton Massachusetts, 114 Merriam Road; prepared by Quinn Engineering, Inc.; 11" x 17", color; dated November 18, 2014, revised through May 11, 2015; received May 11, 2015; 7 sheets as follows:

- Sheet 1: Existing Conditions Plan
- Sheet 2: Proposed Lot Layout Plan
- Sheet 3: Proposed Lot Development Plan
- Sheet 4: Erosion Control and Stormwater Pollution Prevention Plan
- Sheet 5: Profile, Details & Notes
- Sheet 6: Details & Notes
- Sheet 7: Notes

EXHIBIT 4. Correspondence from Grafton Fire Department, Special Permit [SP 2015-6] Common Driveway & Scenic Road Permit SRP 2015-1; dated May 11, 2015, received May 12, 2015; 1 page.

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- EXHIBIT 5. Correspondence from Quinn Engineering, Inc., Proposed Common Driveway & Scenic Road Curb Cuts, 114 Merriam Road, DEP #164-0890); dated May 11, 2015, received May 12, 2015; 1 page.
- EXHIBIT 6. Stormwater Report, Proposed ANR Subdivision, 114 Merriam Road, Grafton, MA; prepared by Quinn Engineering, Inc.; dated December 12, 2014, revised through May 11, 2015.
- EXHIBIT 7. Plan Set, Lot Development Plan, Grafton Massachusetts, 114 Merriam Road; prepared by Quinn Engineering, Inc.; 11" x 17", black & white; dated November 18, 2014, revised through May 11, 2015; received May 12, 2015; 7 sheets as follows:
- Sheet 1: Existing Conditions Plan
  - Sheet 2: Proposed Lot Layout Plan
  - Sheet 3: Proposed Lot Development Plan
  - Sheet 4: Erosion Control and Stormwater Pollution Prevention Plan
  - Sheet 5: Profile, Details & Notes
  - Sheet 6: Details & Notes
  - Sheet 7: Notes
- EXHIBIT 8. Plan Set, Lot Development Plan, Grafton Massachusetts, 114 Merriam Road; prepared by Quinn Engineering, Inc.; 24" x 36", black & white; dated November 18, 2014, revised through May 11, 2015; received May 12, 2015; 7 sheets as follows:
- Sheet 1: Existing Conditions Plan
  - Sheet 2: Proposed Lot Layout Plan
  - Sheet 3: Proposed Lot Development Plan
  - Sheet 4: Erosion Control and Stormwater Pollution Prevention Plan
  - Sheet 5: Profile, Details & Notes
  - Sheet 6: Details & Notes
  - Sheet 7: Notes
- EXHIBIT 9. Correspondence from Grafton Police Department, (SP 2015-6) Common Driveway & Scenic Road Permit – 114 Merriam Road; dated May 14, 2015, received May 15, 2015; 1 page.
- EXHIBIT 10. Correspondence from Graves Engineering, 114 Merriam Road Common Driveway, Hydrology and Stormwater Management Review; dated May 18, 2015, received May 21, 2015; 3 pages.
- EXHIBIT 11. Public Hearing Sign-in Sheet, May 18, 2015; 1 page.

### III. WAIVERS

- W1. At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Applicant's request for a waiver from the requirements of Section 4.12.1.3

of the Grafton Subdivision Rules and Regulations – Common Driveway: Maximum Length. The Board finds that environmental constraints of the site (see FINDINGS #F5, #F8 and #F9) coupled with the emergency access requirements of the Grafton Fire Department (see EXHIBIT #4, FINDING #F7) resulted in a layout which necessitated the need for a waiver. The Board finds that the waiver request as presented in the Application (EXHIBIT #1 and EXHIBIT #8) for this particular Application on this particular site is warranted and in the best interests of the Town.

- W2. At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Applicant's request for a waiver from the requirements of Section 8.2 (Traffic Study) of the ZBL.

#### IV. FINDINGS

At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to make the following findings:

- F1. That during the public hearing Mr. Carl Hultgren of Quinn Engineering presented the project on behalf of the Applicant. Mr. Hultgren reviewed the work associated with the Special Permit Application during the course of the joint hearing for the Scenic Road Permit (SRP 2015-1). The Scenic Road Application is part and parcel of the overall site development plan reviewed as part of the common driveway application. The Applicant reviewed the plan set (see EXHIBIT #1) noting that all work associated with both Applications have been incorporated together.
- F2. That the site is zoned Agricultural (A) and is not within the Water Supply Protection Overlay District (WSPOD). The total site acreage is 17.9 acres and has 947 feet of frontage along Merriam Road. The Applicant is proposing to divide the property into four lots, three of which will be served by a common driveway. In addition, the plan shows 5.3 acres of open space which will be conveyed to the Town.
- F3. That a common driveway is permitted as an accessory use in an Agricultural (A) zoning district only upon the issuance of a Special Permit by the Planning Board, in accordance with Sections 5.9 and 1.5 of the Grafton Zoning By-law (hereinafter ZBL).
- F4. That during the public hearing the Board and the Applicant discussed the proposed conveyance of the open space to the Town (see EXHIBIT #1). The site abuts the Town's conservation area known as Frost/Blithewood Property. The Applicant is proposing to convey approximately 5.3 acres (locally known as "Churchill Meadows") to connect these two open spaces for use as the Town sees fit and appropriate. The Board finds that the open space (5.45 acres) was conveyed to the Town at the May 11, 2015 Town Meeting for the purposes of conservation and passive outdoor recreation to be held in the care and custody of the Grafton Conservation Commission pursuant to MGL. Ch. 40, s.8C or any other enabling authority (Warrant Article #30).
- F5. That during the public hearing the Board and the Applicant discussed the proposed layout of the common driveway. A number of layouts were considered to including several that would avoid any waiver requests. These designs included the development of a cul-de-sac with driveways radiating

from each. Other designs resulted in long individual driveways radiating from a split at the end of the common driveway. Ongoing review of various concepts with the Town resulted in a design that addresses concerns raised by the Fire Department regarding emergency access (see FINDING #F7) and would result in less impervious surface. However, this design does require a waiver from the Subdivision Rules and Regulations which allows for up to 500 feet for a common driveway. The proposed driveway is 675 feet long. (See FINDING #F6). The additional driveway length would allow emergency access vehicles to gain close access to the house lots and also allow for a turnaround area for those vehicles which would allow for multiple vehicles to access the house lots. The Applicant stated that the waiver request would allow for a design that was more environmentally sensitive and provide the necessary access for emergency vehicles. The Board noted that the final design presented which required the waiver was a less complex layout, less impervious surface, and provided good emergency access endorsed by the Fire Department.

- F6. That during the public hearing the Board and the Applicant discussed the two waiver requests – length of the common driveway (Section 4.12.3 of the Grafton Subdivision Rules and Regulations) and traffic study (Section 8.2 of the Grafton Zoning By-law). The Applicant reviewed the design options based on a number of factors including comments received from the Grafton Fire Department (see FINDING #F7) and noted that the final design took into consideration all factors including site constraints for lot development, environmental constraints such wetlands, ACEC, proximity to Miscoe Brook, stormwater system design and emergency vehicle access. The Applicant noted that the traffic impacts will be minimal in nature. The two waiver requests are reflective of the final design (see EXHIBIT #8).
- F7. That during the public hearing the Board and the Applicant discussed comments received from the Fire Department (see EXHIBIT #4) which states that it is in favor of the waiver request to extend the common driveway from 500 feet to 675 feet as shown on EXHIBIT #8 for the following reasons as outlined in their correspondence:
- The additional 175 feet in length would allow for closer access to the houses to be built which is especially important when there is snow on the ground.
  - Closer house access enables them to bring a temporary water supply to where it is needed in the event of a fire.
  - Extending the common driveway by 175 feet will allow the Fire Department to turn the fire apparatus around closer and reduce the backing up / blocking of the apparatus.

In addition, the Fire Department recommends paving the full length of the proposed common driveway to ensure adequate passage of emergency vehicles in all weather conditions. The Board finds that the Applicant is proposing to pave the common driveway (see EXHIBIT #1 and EXHIBIT #8).

- F8. That during the public hearing the Board and the Applicant discussed the environmental constraints of the site. The site is located within the Miscoe Brook Area of Critical Environmental Concern (ACEC), has significant wetlands on and around the site, is adjacent to the Miscoe Brook, and is in a flood plain. Wetland resource areas affecting the property have been delineated. The Applicant is working with the Conservation Commission and is in the permitting process. The common driveway has been designed for the least impact on the environment given the site configuration and the available upland for lot development. The common driveway is proposed to avoid wetland filling



associated with constructing individual driveways to each of the new house lots. Runoff from the common driveway will be detained and treated in accordance with MA DEP Stormwater regulations.

- F9. That during the public hearing the Board and the Applicant discussed legal frontage for the proposed house lots. The Applicant reviewed the lot configuration noting that each lot will have legal frontage on Merriam Road. The lot configurations were created to accommodate the common driveway design that was situated to avoid impacts to the wetlands.
- F10. That during the public hearing the Board and the Applicant reviewed comments received from the Police Department: "The approval of this development should be subject to the proper installation signage and/or markers to indicate that additional housing units are located on the common driveway."
- F11. That during the public hearing the Board and the Applicant discussed sight distances. The Applicant reviewed the sight distance analysis submitted in the Application (see EXHIBIT #1) including the horizontal geometry and elevation changes in Merriam Road. The available sign distance along Merriam Road where it intersects with the proposed common driveway looking easterly exceeds 500 feet and looking westerly is approximately 255 feet. Other factors were included in the analysis including AASHTO guidelines for design speed and the impact of existing road conditions to overall speed. No improvements or signage are proposed as part of this Application. The Board finds that the Town's consulting engineer, Graves Engineering, reviewed the sight distance analysis and noted "We have no issue with the common driveway sight distances analysis in Quinn Engineering's April 22, 2015 correspondence." (see EXHIBIT #10)
- F12. That during the public hearing the Board received testimony from Jerlyn Sponseller of 14 George Hill Road, an abutter to the project. She voiced her concerns about the following:
- Will the water quality of Miscoe Brook be affected by the proposed subdivision?
  - Will the common driveway impact the buffer zone for the brook and to what extent?
  - The Miscoe Brook was determined to be a critical waterway. What tests are being done to ensure that the runoff from those driveways will not impact Miscoe Brook?
  - The additional driveway openings along this stretch of road. She noted that there are a number of blind spots due to the alignment and condition of the road. Vehicles travel quickly down this road and it leads to unsafe conditions for those walking and running. She cited the newest driveway to the west of the site adding that it presents a hazard due to a blind spot at their driveway access point. She was concerned that the additional driveway cuts would serve to aggravate the situation.
- The Board reviewed the environmental safeguards in place to protect the water supply & quality as well as impacts to the wetlands. It was further noted that the project must also receive valid permits from the Grafton Conservation Commission which would further address the environmental impacts and mitigation thereof.
- F13. The Board finds that the Town's consulting engineer, Graves Engineering, conducted a full review of the Application and submitted several sets of comments to be addressed by the Applicant's engineering firm, Quinn Engineering. The Board finds that there were no outstanding or unaddressed issues or concerns presented in the final project review report submitted by Graves Engineering (see EXHIBIT #8).

*DECISION - GRAFTON PLANNING BOARD  
Special Permit (SRP 2015-6) – Common Driveway  
114 Merriam Road, Grafton  
Frederic & Margot Churchill (Applicant / Owner)  
Page 7 of 12*

At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 make the following findings with regards to Section 5.9 of the Grafton Zoning By-Law:

- F14. That with regard to Section 5.9.2(a), the design of the proposed common driveway (as depicted and described within the EXHIBITS of this Decision) does comply with the design and construction requirements for common driveways set forth in the *Rules and Regulations*. All design and construction requirements were reviewed by and were found to be satisfactory by the Town's consulting engineer (see EXHIBIT #10 and FINDING #F13).
- F15. That with regard to Section 5.9.2(b), access to the proposed building site of each lot using the legal frontage of said lots is satisfactory (see FINDING #F9).
- F16. That with regard to Section 5.9.2(c), provisions for safe ingress/egress of the residents of the lots served by the proposed common driveway, as well as public safety vehicles and personnel, are satisfactory (see FINDING #F11 and #F13, CONDITION #C12).
- F17. That with regard to Section 5.9.2(d), the location of the point of ingress/egress of the proposed common driveway with respect to public safety, convenience and traffic flow, including, but not limited to, topography, sight lines and road grades is satisfactory (see FINDING #F11).
- F18. That with regard to Section 5.9.2(e), location of environmental and/or historical resources, and the impacts of driveway construction on such resources without the use of a common driveway, is acceptable. The two curb cuts and tree cutting within the Town's right of way along the designated scenic road, Merriam Road, was addressed as part of the Scenic Road Permit (SRP 2015-1) application process and hearing (see FINDING #F1 and CONDITION #C2). The alternative would be individual driveways for each lot which would require filling of bordering vegetative wetlands.
- F19. That with regard to Section 5.9.2 (f) and the potential for the proposed common driveway to reduce excessive points of ingress/egress along the roadway and minimize access points to the extent practical, is satisfactory. The proposed common driveway reduces the number of potential individual lot driveways from three (3) to one (1). (See FINDINGS #F5 and #F8).

At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 make the following findings with regards to Section 1.5.5 of the Grafton Zoning By-Law:

- F20. With regard to Section 1.5.5(a) of the ZBL, that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate. The Board finds that the Applicant demonstrated that the sight distances where the common driveway will intersect with Merriam Road would not present a hazard to pedestrian and automotive safety. (See FINDINGS #F7, #F10, and CONDITION #C12)
- F21. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory. No

off street parking or loading areas are required as part of this Application or future development of the house lots associated with this site. Proposed single family house lots are in keeping with the surrounding residential uses.

- F22. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are satisfactory. Abutters to the common driveway will be required to privately contract refuse collection per the requirements of Section 4.12.2 of the Grafton Subdivision Rules and Regulations (see CONDITION #C5). No service areas are required as part of this Application and future development of the house lots associated with the common driveway.
- F23. With regard to Section 1.5.5(d) of the ZBL, which based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate. The proposed development of the house lots associated with the common driveway is in keeping with the residential nature of the surrounding properties (see EXHIBIT #8).
- F24. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. The proposed development of the house lots associated with the common driveway is in keeping with the residential nature of the surrounding properties (see EXHIBIT #8).
- F25. With regard to Section 1.5.5(f) of the ZBL, which based upon the Findings stated within this Decision, the required yards and other open space requirements are adequate. The common driveway (as presented in the EXHIBITS of this Decision and by the Applicant during the public hearing, and further described within the Findings of this Decision), has been designed to meet the requirements of the Grafton Subdivision Rules and Regulations. The proposed house lots exceed the minimum setback requirements and approximately 5.3 areas of open space is proposed as part of the project.
- F26. With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property for a common driveway (as presented in the EXHIBITS of this Decision and by the Applicant during the public hearing, and further described within the Findings of this Decision), is generally compatible with adjacent properties and properties in the district (see FINDING #F2).
- F27. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply. The proposed house lots will be served by private wells and leaching areas (see EXHIBITS #1 and #8, FINDING #F2). Development of these lots will require permitting from Board of Health.
- F28. With regard to Section 1.5.5(i) of the ZBL, the Board finds that the proposed common driveway is not located within the Water Supply Protection Overlay District.
- F29. With regard to Section 1.5.5(j) of the ZBL, based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory. The two curb cuts and tree cutting within the Town's right of way along the designated scenic road, Merriam Road, was addressed as part of the Scenic Road Permit (SRP 2015-1) application process and hearing (see FINDING #F1 and CONDITION #C2).

## V. DECISION

At their meeting of July 13, 2015, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Special Permit subject to the following conditions:

- C1. This Decision reflects the Board's approval of the construction of a common driveway as conditioned by this DECISION and as shown on the plans (see EXHIBIT #8). All work authorized under this Special Permit shall be completed in accordance with the plan and description identified in the EXHIBITS and FINDINGS of this Decision, as well as all conditions of this Decision.
- C2. This Special Permit (SP 2015-6) and the Scenic Road Permit (SP 2015-1) for the same site are not mutually exclusive. Each Application will be conditioned to reference each other to ensure that the totality of the site will be developed according to all conditions for the Common Driveway and Scenic Road Permit (see PROJECT OVERVIEW). All conditions for Scenic Road Permit (SP 2015-1) are incorporated into this DECISION. Failure to maintain a valid Scenic Road Permit will cause this DECISION to be null and void.
- C3. The work authorized by this Special Permit shall be solely for the purposes noted within Condition #1 of this Decision. Changes to plans presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
- C4. Prior to the issuance of the a building permit, the Applicant shall submit a final plan set to be reviewed and approved by the Planning Board or its Agent to include:
  - Change language in Note A on Sheet 3 – Proposed Lot Development Plan from “Shade Tree Permit” to “Scenic Road Permit”
  - Change language on Sheet 3 Sheet 3 – Proposed Lot Development Plan from “Prop. sign identifying house numbers served by the Prop. common driveway (to be approved by the Fire Dept. before installation)” to “..... (to be approved by the Fire Dept. and Police Dept. before installation.”
  - Notation on the plans that the open space was conveyed to the Town at the May 11, 2015 Town Meeting for the purposes of conservation and passive outdoor recreation to be held in the care and custody of the Grafton Conservation Commission pursuant to MGL. Ch. 40, s.8C or any other enabling authority (see FINDING #F4)
  - All conditions of this Special Permit and Scenic Road Permit (SRP 2015-1).
- C5. Prior to start of any construction on the Site and in accordance with Section 4.12.2 of the Grafton Subdivision Rules and Regulations, the Applicant shall submit shall submit a covenant or agreement, easement and restrictions acceptable to the Board or its Agent for the common driveway to ensure the following:
  - that it shall remain a private driveway unless it is both improved and redesigned and improved, at no cost to the Town, in accordance with the minimum standards per the Grafton

Subdivision Rules and Regulations, is reclassified by the Planning Board and accepted by the Town;

- maintenance and snow plowing will be responsibility of the abutters to the common driveway;
  - abutters to the common driveway will be responsible for rubbish collection at their own expense;
  - all such covenants, agreements, easements will run with the land in perpetuity.
- C6. Prior to the issuance of a building permit, the Applicant shall submit and maintain a positive construction period review fee account to be administered by the Town. Said fee shall be used for site inspections and associated work by a professional engineer to ensure compliance with this DECISION. The amount of the initial fee shall be determined by the estimated work items by the Board or its Agent and the consulting engineer. Any remaining balance of construction period review fees collected shall be returned to the OWNER upon completion of all site work and final issuance of Certificate of Occupancy.
- C7. All grading and construction shall be performed in accordance with the approved Plans, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas during construction, and after completion, from the site and its associated improvements.
- C8. Prior to the start of any construction activity on the Site, an initial inspection of erosion control /site stabilization measures shall be performed by agent(s) of both the Planning Board and Conservation Commission in the presence of a representative of the Applicant/developer, and notice of such inspection forwarded to both Boards. No construction activity shall occur on the Site until the Applicant/developer receives written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures. The Planning Board reserves the right to require additional erosion control / site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deem such measures necessary. The Applicant/developer shall be notified in writing of the necessity for such additional measures, and shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Commission.
- C9. Prior to the start of any construction activity on the Site, the Applicant shall submit to the Town (through the Planning Board) a bond or other type of security acceptable to the Board, in an amount to be determined by the Board or its Agent, for the purposes of ensuring adequate stormwater management and erosion control /site stabilization during the construction process. Said bond/security shall not be released until the Site is stabilized and all stormwater management facilities are functioning to the satisfaction of both the Planning Board and Conservation Commission.
- C10. Hours of construction and earthwork proposed shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or State and Federal holidays.
- C11. The Applicant shall comply with any Order of Conditions and/or permits issued by the Grafton Conservation Commission.

- C12. All applicable requirements of Town, State or Federal agencies are hereby incorporated by reference as a requirement of this Decision.
- C13. Prior to the issuance of an Occupancy Permit for the dwellings served by the common driveway authorized by this DECISION, the Applicant shall install appropriate signage to identify all three addresses at the entrance for identification of the individual dwelling units. Signage related to the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law and all other applicable regulations. This DECISION shall not be construed as approving or authorizing any such signage (see FINDING #F10, EXHIBIT #9).
- C14. Any modification to work authorized by this Decision shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.
- C15. This Approval shall not be construed as final approval of any on- or off-site improvements or work (such as water, septic, drainage, or installation of other utilities) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the Grafton Highway Department and all applicable utilities are hereby incorporated by reference as a requirement of this DECISION.
- C16. In accordance with Section 1.5.8 of the ZBL, this Special Permit shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C17. This Special Permit shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department. Said copy will include recording information such as the WDRD Book and Page Number and/or Instrument Number.
- C18. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

## **VI. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted 5-0 to **GRANT** the Applicant's Special Permit with Conditions for construction of a Common Driveway at 114 Merriam Road based on the information received at the public hearing and the aforementioned findings.

DECISION - GRAFTON PLANNING BOARD  
Special Permit (SRP 2015-6) – Common Driveway  
114 Merriam Road, Grafton  
Frederic & Margot Churchill (Applicant / Owner)  
Page 12 of 12

<u>Sargon Hanna, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Michael Scully, Vice Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Clerk</u>	<u>AYE</u>		

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

  
Joseph Layden, Town Planner

7-21-2015  
Date

cc: Applicant / Owner

- Graves Engineering
- Assistant Town Engineer
- Building Inspector

A true copy,  
Attest:

  
Donna M. Girouard, Town Clerk  
Grafton, MA

ATTEST: WORC. Anthony J. Vigliotti, Register

# QUINN ENGINEERING, INC.

PO BOX 107  
Paxton, Massachusetts 01612  
Phone: (508) 753-7999  
Fax: (508) 795-0939

June 14, 2016

Grafton Planning Board  
30 Providence Road  
Grafton, MA 01519

Re: 114 Merriam Road  
Common Driveway (SP 2015-6)

To the Board,

At the July 15, 2015 meeting, the Board voted to grant a Special Permit for the construction of a common driveway at 114 Merriam Road owned by Frederic and Margot Churchill. The Special Permit was recorded at the Worcester Registry of Deeds in Book 55451 Page 1 and will lapse August 10, 2016. The common driveway will serve Lot A, Lot B and Lot C depicted on the *Lot Development Plan* (revised 1/15/16). Also depicted on the *Lot Development Plan* are Lot D, located to the north of Lot A, Lot B and Lot C, and Parcel X which was conveyed to the Town of Grafton in December 2015.

On behalf of Mr. and Mrs. Churchill, a (1) year extension of the Special Permit approval is respectfully requested. It is expected that "Lot D" will be developed in the near future and that the common driveway construction will begin shortly after the construction on "Lot D" begins since construction vehicles will have been mobilized to the property. It is expected that the requested (1) year extension will be more than sufficient to allow for construction of the common driveway to begin. No changes to the approved *Lot Development Plan* are proposed.

Please do not hesitate to call if you have any questions or comments.

Sincerely,  
QUINN ENGINEERING



Carl Hultgren, PE  
Senior Engineer

Enclosed: Application for Special Permit (6 copies)  
Certificate of Good Standing (6 copies)  
Certified Abutter List w/ (2) stamped envelopes for each abutter  
CD with .pdf files of the above  
Check #1417- \$100 payable to the Town of Grafton (Special Permit Modification Fee)  
Check #1418 - \$112 payable to the Town of Grafton (Legal Notice Fee)

CC: File





TOWN CLERK

Donna M. Girouard  
Town Clerk

**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 1195  
[www.clerks@graffton-ma.gov](http://www.clerks@graffton-ma.gov)



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Bk: 56349 Pg: 166

Page: 1 of 5 11/22/2016 12:15 PM WD

**CERTIFICATE OF NO APPEAL**

**APPROVAL:**

PLANNING BOARD  
Special Permit (SP 2015-6.1) & Site Plan Approval  
Modification #1

**PETITIONER:**

Frederic & Margot Churchill  
114 Merriam Road, Grafton, MA 01519

**OWNER:**

Frederic & Margot Churchill  
114 Merriam Road, Grafton, MA 01519

**DEED REFERENCE:**

114 Merriam Road  
Assessors Map 59, Lot 24  
Book 6442, Page 94, Book 12253, Page 286  
Worcester District Registry of Deeds

This is to certify that a copy of the Decision of the Planning Board of the Town of Grafton on the petition for the Modification of a Special Permit to extend the period to construct of a common driveway at 114 Merriam Road, Grafton was received and filed in the Office of the Town Clerk on September 15, 2016 at 11:15 A.M.

No Notice of Appeal of the Decision was filed within the twenty days next, the appeal period ending on October 5, 2016.

A true copy,

Attest:

(Seal)

A handwritten signature in cursive script, reading "Andy L. Saville", is written over a horizontal line.  
Town Clerk - Grafton, Massachusetts

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2015-6.1) & SITE PLAN APPROVAL  
MODIFICATION #1  
Common Driveway**

**114 Merriam Road  
Grafton, MA**

**Frederic & Margot Churchill (Applicant / Owner)**

RECEIVED TOWN CLERK  
GRAFTON, MA  
2016 SEP 15 AM 11:15

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Frederic & Margot Churchill (hereinafter the APPLICANT / OWNER) for the Modification of a Special Permit to extend the period to construct of a common driveway at 114 Merriam Road, and shown on the Grafton Assessor's Map 59, Lot 24, and owned by Frederic & Margot Churchill, 243 Pleasant Street, South Yarmouth, MA 02664 by deed recorded in the Worcester District Registry of Deeds Book 6442, Page 94 & Page 187; and Book 12253, Page 286. Special Permit (SP 2015-6) & Site Plan Approval was recorded at the Worcester District Registry of Deeds on June 9, 2016 - Book 55451, Page 10.

The above referenced Application was submitted on June 14, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on June 23 and June 30, 2016 and posted with Town Clerk's Office. The Planning Board considered the Application at a properly posted meeting of said Board on July 11, 2016. Carl Hultgren of Quinn Engineering and Eric Gilmore of Gilmore Building Company presented the Application to the Board. Following public input the hearing was closed on July 11, 2016.

The following Board members were present during the entire public hearing process: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk David Robbins, Members Linda Hassinger and Tracy Lovvorn, and Associate Member Sharon Carroll-Tidman. At the time of DECISION, Mr. & Mrs. Hassinger recused themselves from the proceedings as they had retained the services of Mr. Gilmore in the past and believed that acting on this Application might potentially be perceived as favoritism. Mr. Scully appointed Associate Member Sharon Carroll-Tidman as a voting member on this matter.

The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

## **I. SUBMITTALS**

The following items were submitted to the Board for its consideration of these applications:

- EXHIBIT 1.** Unbound application packet prepared by Quinn Engineering, Inc. on behalf of the Applicant, submitted on June 14, 2016, including the following:
- Application for Modification of a Special Permit, dated June 9, 2016, 1 page.
  - Correspondence from Quinn Engineering, 114 Merriam Road – Common Driveway (SP 2015-6); dated June 14, 2016, 1 page.
  - Certified Abutters List, June 10, 2016, 1 page.
  - Certificate of Good Standing, signed by the Treasurer / Collector's office on June 14, 2016; 1 page.

RECEIVED TOWN CLERK  
GRAFTON, MA  
2016 SEP 15 AM 11:15

*DECISION - GRAFTON PLANNING BOARD*  
*Special Permit (SRP 2015-6.1) & Site Plan Approval – Modification #1*  
*114 Merriam Road, Grafton*  
*Frederic & Margot Churchill (Applicant / Owner)*  
*Page 2 of 4*

- EXHIBIT 2. Public Hearing Notice, Grafton Planning Board; June 21, 2016, 1 page.
- EXHIBIT 3. Department Review Email Correspondence from the Police Chief, received June 23, 2016; 1 page.
- EXHIBIT 4. Department Review Email Correspondence from the Board of Health, received June 23, 2016; 1 page.
- EXHIBIT 5. Public Hearing Sign-in Sheet, July 11, 2016; 1 page.

## II. FINDINGS

At their meeting of September 12, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 4-0 to make the following findings:

- F1. That during the public hearing Mr. Carl Hultgren of Quinn Engineering presented the application on behalf of the Applicant. They are requesting an extension of the period to construct as delineated in Condition #C16 of Special Permit SP 2015-6 which states:
- In accordance with Section 1.5.8 of the ZBL, this Special Permit shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.*
- F2. That during the public hearing the Applicant provided a project update. Since time of the Special Permit Decision, the agreed upon back parcel had been conveyed to the Town in accordance with the agreement made between the Applicant and the Town. Four lots were approved, three of which would be on a common driveway. Mr. Hultgren stated that he expected construction to begin on the frontage lot along Merriam Road (not along the common driveway) in the very near future. Once that site has been developed then the work for the common driveway would commence.
- F3. That during the public hearing the Board received testimony from Theresa Churchill of 123 Merriam Road. She asked if the Applicant was seeking to make any changes to originally approved plans for both the Special Permit and the Scenic Road Permit associated with this project. Mr. Hultgren stated that no changes were being made and that they were seeking only to extend the period of time to construct.
- F4. That during the public hearing the Board received written testimony from the Police Department (see EXHIBIT #3). It was noted that the Police Department reviewed the application and had no comments.
- F5. That during the public hearing the Board received written testimony from the Board of Health (see EXHIBIT #4). Comments noted that the "Driveway must be 25 feet from a well and 10 feet from septic tank and 20 feet from leach field".
- F6. That during the public hearing the Board solicited public comment from the audience. None was received.

*DECISION - GRAFTON PLANNING BOARD  
Special Permit (SRP 2015-6.1) & Site Plan Approval - Modification #1  
114 Merriam Road, Grafton  
Frederic & Margot Churchill (Applicant / Owner)  
Page 3 of 4*

- F7. Prior to the close of the public hearing the Board voted unanimously 4-0 that the request for an extension of time for period to construct was deemed a minor modification. (By roll call vote: Scully - AYE; Robbins - AYE; Lovvorn - AYE; Carroll-Tidman - AYE).

### III. DECISION

At their meeting of September 12, 2016 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Lovvorn) voted 4-0 to **GRANT** the Modification of the Special Permit subject to the following conditions:


- C1. This approval specifically modifies Condition #16 of Special Permit (SP 2015-6), dated July 13, 2015, and is recorded in the Worcester District Registry of Deeds, Book 55451, Page 10. This approval as presented in this Decision specifically allows an extension of the time period to construct extending the deadline for completion to **August 3, 2017**.
- C2. Any request for additional extensions of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C3. This Modification of Special Permit (SP 2015-6) shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department. Said copy will include recording information such as the WDRD Book and Page Number and/or Instrument Number.
- C4. All conditions and requirements of the Special Permit (SP 2015-6) shall remain in full force and effect.

### VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 4-0 to **GRANT** the Applicant's request for Special Permit (SP 2015-6.1) & Site Plan Approval - Modification #1 with Conditions for and extension of time to construct a Common Driveway at 114 Merriam Road based on the information received at the public hearing and the aforementioned findings.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Tracy Tovvorn, Member</u>	<u>AYE</u>
<u>David Robbins, Clerk</u>	<u>AYE</u>	<u>Sharon Carroll-Tidman, Associate Member</u>	<u>AYE</u>

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

  
Joseph Laydon, Town Planner

9-15-2016  
Date

DECISION - GRAFTON PLANNING BOARD  
Special Permit (SRP 2015-6.1) & Site Plan Approval - Modification #1  
114 Merriam Road, Grafton  
Frederic & Margot Churchill (Applicant / Owner)  
Page 4 of 4

cc: Applicant / Owner

- Carl Hultgren, Quinn Engineering, Inc.
- Jeff Walsh, Graves Engineering
- Assistant Town Engineer
- Building Inspector

**To Whom It May Concern:** This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

*Handy Lavallee*  
Donna Girouard, Town Clerk Asst  
*Kandy Lavallee*

*10/6/14*  
Date

A true copy,

Attest:

*Handy L. Lavallee*  
*Kandy L. Lavallee*  
Donna M. Girouard, Town Clerk Asst  
Grafton, MA

ATTEST: WORC. Anthony J. Vigliotti, Register